

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

HEALTH REPUBLIC INSURANCE	:	
COMPANY,	:	Case No. 16-259C
	:	
Plaintiff,	:	Judge Davis
	:	
v.	:	
	:	
THE UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

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**THE UNITED STATES' UNOPPOSED MOTION TO CONTINUE  
ORAL ARGUMENT SET FOR JANUARY 28, 2022**

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The United States respectfully move the Court to continue the oral argument scheduled for January 28, 2022, at 11:00am, by thirty (30) days in order to permit the United States and dispute subclass members Meritus Health Partners and Meritus Mutual Health Partners (“Meritus”) to complete their discussions regarding a consensual resolution of their respective claims in this case. If the United States and Meritus can reach an agreement, we anticipate that this agreement would also resolve the claims pending in *Daniels v. United States*, No. 19-1499, which is stayed pending resolution of this case.

Meritus and Colorado Health Insurance Cooperative, Inc. (“Colorado Health”) do not oppose this request and agree that a stay or continuance would conserve the parties and the Court’s resources given the overlapping and related arguments raised in their joint motion to dismiss. The United States request this relief in good faith, and this request will not prejudice any party or result in undue delay.

The United States further proposes that the parties be permitted to submit a joint status report in 30 days advising the Court of whether the United States and Meritus had reached a written agreement or determined that they cannot reach a consensual resolution of their claims.

### **BACKGROUND**

In February 2016, Health Republic Insurance Company filed this putative class action seeking payments under section 1342 of the Patient Protection and Affordable Care Act (“ACA”). Following the Supreme Court’s holding that section 1342 of the ACA “created an obligation” and that issuers may collect payment in this Court, *Maine Cmty. Health Options v. United States*, 140 S. Ct. 1308 (2020), the United States and other Class members stipulated to entry of final judgments regarding claims under section 1342 and the United States’ counterclaims, if any. Colorado Health and Meritus are the remaining members of the Class with unresolved claims.

The United States subsequently filed an amended answer and counterclaim against Colorado Health and Meritus, Docket No. 101, who moved to dismiss the United States’ counterclaim, Docket No. 103. The Court set argument on the motion to dismiss for January 28, 2022, at 11:00am.

### **ARGUMENT**

“It is well established that every trial court has the power to . . . control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Freeman v. United States*, 83 Fed. Cl. 530, 532 (2008) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). Such power is exercised “within the sound discretion of the trial court.” *Id.* (citation and internal punctuation omitted). The Supreme Court has highlighted the conservation of judicial resources as an important reason for a trial court to delay proceedings in any matter pending before it. *See Landis*, 299 U.S. at 254-55; *UnionBanCal Corp. & Subsidiaries v. United States*, 93 Fed.

Cl. 166, 167 (2010) (“The orderly course of justice and judicial economy is served when granting a stay simplifies the ‘issues, proof, and questions of law which could be expected to result from a stay.’”) (quoting *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962)).

Here, we believe that the United States and Meritus may be able to resolve their respective claims if the Court grants the requested continuance. Due to the significant amounts at issue, the United States and Meritus need additional time to continue their discussions, and if warranted, obtain necessary approvals memorialize their agreement in writing. If those discussions are successful, we anticipate that the resulting settlement would also resolve the claims between the United States and Meritus in *Daniels v. United States*, No. 19-1499, which is pending in this Court and already stayed until this case is resolved.

The requested continuance is also warranted because the pending motion to dismiss includes overlapping and related issues involving Colorado Health and Meritus . For that reason, Colorado Health does not oppose a brief stay to permit the United States and Meritus to complete those discussions. The parties propose that a joint status report be submitted in 30 days advising the Court of whether the United States and Meritus had reached a written agreement or determined that they cannot reach a consensual resolution of their claims.

For these reasons, the United States respectfully request that the Court continue the argument set for January 28, 2022, in order to permit the United States and Meritus to continue their discussions regarding a consensual resolution of their respective claims.

Dated: January 21, 202

Respectfully submitted,

BRIAN M. BOYTON  
Acting Assistant Attorney General  
Civil Division

RUTH A. HARVEY  
Director  
Commercial Litigation Branch

KIRK T. MANHARDT  
Deputy Director

/s/ Terrance A. Mebane  
TERRANCE A. MEBANE  
MARC S. SACKS  
FRANCES M. MCCLAUGHLIN  
PHILLIP M. SELIGMAN  
United States Department of Justice  
Civil Division, Commercial Litigation Branch  
Telephone: (202) 307-0493  
Terrance.A.Mebane@usdoj.gov

*Counsel for the United States of America*